

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-against-

16 CR 34 (AMD)

NIMBOKO MILLER

NOTICE OF MOTION

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PLEASE TAKE NOTICE, that upon the annexed Exhibits, Memorandum of Law, and upon all prior proceedings had herein, the defendant, NIMBOKO MILLER by his attorney will move this court for an Order *in limine* allowing the defense to introduce in its defense case at trial:

1. A press release (Exhibit A) by the United States Department of Justice Office of Public Affairs, dated April 8, 2016 describing “Wells Fargo Bank[‘s] Agreement to pay 1.2 Billion for Improper Mortgage Lending Practices, pursuant to Fed. R. of Evid. §§201 (Judicial Notice), 801 (d) (2)(A),(B),(C),(D) (an opposing party’s statement, the party here being The United States of America), 804 (b) (3), (statement against interest), 807 (Residual Exception) and 902 (self-authenticating), 803(A)(ii) and 1005, (a public record),
document,<https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-12-billion-settlement-its-claims-against-wells-fargo>).

2. The “Stipulation and Order of Settlement and Dismissal with Prejudice,” (Exhibit B) in the case of *United States of America v. Wells Fargo Bank*, 12 Civ. 7527 (SDNY), Document # 320 on the court docket sheet filed on April 8, 2016, pursuant to Fed. R. Evid. 701, and 902, and 1005 (Copies of Public Records).
3. Public Law 110-343 enacted October 3, 2008- the Troubled Asset Relief Program - (TARP) with a three paragraph summary from Wikipedia or another reliable source describing TARP (Exhibits C and D) pursuant to Fed R. Evid. 201, 902, and 1005.
4. Page 1 from a list of “Bailed out Banks” from a news article by CNN describing the banks that were bailed out by TARP, the first bank on the list being Wells Fargo, dated 12/8/2008 - \$25,000,000,000 (Exhibit E) downloaded from the internet. (<http://money.cnn.com/news/specials/storysupplement/bankbailout/>), pursuant to Fed. R. Evid. 201 and 902, 1005) .
5. Unless the court decides to grant this motion prior to trial, the defendant moves that the court hold in abeyance a decision until after the government’s case is complete and until the court has had the opportunity to hear the defense witnesses.
6. Counsel for the defense does not wish to waste the court’s time needlessly by reading the documents to the jury. If they are admitted into evidence only relevant portions will be read to the jury.

6. For any further relief that to the court may seem just and proper.

Yours etc.,

Marion Seltzer

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Dated: New York, New York

June 29, 2017

TO: AUSAs Nomi Berenson and Benjamin Saltzman by ECF
Clerk of the Court (by ECF)